761551N25A - SH - AD - 32A (11/02)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

"A Tradition of Service"

OFFICE CORRESPONDENCE

DATE: December 31, 2013
FILE NO.: IAB IV 2347413

FROM: DON P. FORD, CAPTAIN
PALMDALE STATION

TO: FRANK HUELGA, DEPUTY
PALMDALE STATION

SUBJECT: WRITTEN REPRIMAND

On or about August 3, 2012, while on duty and working as a deputy sheriff assigned to Palmdale Station, you failed to conform to the Department's rules when you possessed and used a firearm (Smith and Wesson, 38 caliber, five shot revolver) as a back-up weapon during a tactical incident without attending and completing the instructional course conducted by the Weapons Training Staff for that specific class of handgun. You also failed to qualify using the firearm.

Your actions violated the following sections of the Manual of Policy and Procedures:

3-01/030.10, Obedience to Laws, Regulations, and Orders [as it pertains to 3-03/210.05, Revolvers/Semi-Automatic Pistols (On and Off Duty)].

You are hereby reprimanded for your conduct in this incident and advised that any future violations of a similar nature may result in more severe discipline.

Frank Huelga #[redacted] — Date: 12-31-13

Witness — Date: 12/31/13

761551N25A - SH-AD-32A

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT
A Tradition of Service

DATE: December 19, 2013
FILE NO:

OFFICE CORRESPONDENCE

FROM: BOBBY D. DENHAM, COMMANDER
NORTH PATROL DIVISION

TO: ALICIA E. AULT, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS:

Case Number:	SH2318393/IV2347413
Incident:	Hit Shooting
Incident Date:	August 3, 2012
Unit:	Palmdale Station
Suspect:	Javier Salvador Ortiz, MH/01-25-81
Involved Employees:	Deputy Frank Huelga, #[redacted] Deputy Christopher Poteracki, #[redacted]
EFRC Date:	December 19, 2013

The Executive Force Review Committee (EFRC) consisting of Commanders Bobby Denham, Patrick Maxwell, and Ralph Webb met and reviewed the above case.

FORCE POLICY RELATING TO INCIDENT:

Law Enforcement officers may use deadly force in self-defense or in the defense of others only when they reasonably believe death or serious physical injury is about to be inflicted upon themselves or others.

FINDINGS:

Palmdale Station deputies received a call for service indicating an insane person was running east on Palmdale Boulevard from 15th Street East, Palmdale. The insane person was described as a male Hispanic, 35, wearing black and red basketball shorts, hallucinating, and saying people were trying to kill him.

Several Palmdale units, including an Aero Bureau helicopter, coordinated and were involved in the search for the male Hispanic, but did not find him.

Two deputies not involved in the insane person call heard screaming and saw people chasing one another in the middle of the street in the area of 5th Street East just north of East Avenue Q7. The deputies approached the people on the street and contacted a male witness. As the deputies approached, a male (suspect) fled on foot southbound through the houses.

The witness identified himself as an off duty Los Angeles Police Sergeant. He told the deputies that the suspect assaulted him and his girlfriend with a metal pipe. The deputies began to check the area for the suspect.

Approximately two minutes after contacting the witnesses, the deputies saw the suspect standing in front of [redacted] Larkin Avenue. The suspect ran westbound into the backyard of [redacted] Larkin Avenue. The deputies went westbound through the driveway of [redacted] Larkin Avenue, located one property south of [redacted] Larkin Avenue.

As they approached the end of the driveway, the deputies could see the suspect running westbound through the adjacent yard approaching a cinder block wall along the west property line.

One of the deputies exited the radio car, jumped over a four foot chain-link fence dividing the properties and into the back yard of [redacted] Larkin Avenue, behind the suspect. He drew his firearm and ordered the suspect to stop numerous times.

The suspect tried to scale the cinder block wall but was unable to. He moved to the northwest corner of the yard and began to climb a four foot chain-link fence which divided [redacted] Larkin Avenue with the property to the north, an empty lot. The suspect then began to scale a six foot cinder block wall, dividing the property with the property to the west.

The deputy believed the suspect might escape if he allowed him to go over the wall, so he holstered his firearm and snapped it in his holster. By this time, the second deputy was also in the yard.

One of the deputies grabbed the suspect by the rear waistband of his shorts and pulled him off the wall, back into the property. The suspect landed on his feet and quickly turned toward the deputy. The suspect punched toward the deputy's upper body several times, as the second deputy approached the suspect.

One of the deputies punched the suspect two to three times on his head, but the punches had no effect on him. The deputy immediately felt tremendous pain in his right hand after punching the suspect.

The second deputy punched the suspect on the stomach and right rib area two to three times, but the punches had no effect on the suspect. The deputy grabbed the suspect in a bear hug from behind with the intention of taking the suspect to the ground. The suspect continued to fight and the deputy was not able to take him down.

During this fight, the first deputy felt the suspect pull him toward him. The deputy did not want to be that close to the suspect, so he pushed the suspect away to create distance. The second deputy continued to hold the suspect in a bear hug, as the first deputy fought the suspect from the front.

Just as the first deputy created distance from the suspect, the suspect suddenly raised a gun with both hands and pointing it at the deputy. The deputy yelled out, "Gun, gun!" The second deputy let go of the suspect and grabbed the handgun in suspect's hands from behind him. The deputy struggled with the suspect to point the gun away from the first deputy.

As the first deputy moved away from the line of gunfire, he reached for his duty handgun and noticed his handgun was not in its holster. He quickly realized that the suspect had taken his handgun from his holster. As the second deputy struggled with the suspect over the handgun, the suspect fired one round from the handgun missing the first deputy.

Believing the suspect was trying to kill him or his partner, the first deputy quickly drew his backup firearm from his left front pants' pocket and transitioned it to his right hand. He quickly moved close to the suspect and fired two to three rounds at the right side of the suspect's torso. The suspect and the second deputy fell to the ground while the struggle for the handgun continued.

While on the ground and struggling with the suspect, the second deputy let go of the suspect's handgun with his right hand and continued to hold him with his left hand. He drew his firearm and fired three rounds at the suspect's right and back torso area from a distance of approximately one foot away. Simultaneously, the first deputy fired two more rounds at the suspect's head area from a distance of approximately one foot away. The suspect let go of the handgun and stopped moving on the ground. The two deputies stood over the suspect and detained him at gunpoint as the second deputy broadcasted an assistance request to Palmdale Station units via his handheld radio. The estimated contact, fight, and shooting in the back yard with the suspect lasted under thirty seconds.

The suspect was pronounced dead at the scene by personnel from the Los Angeles County Fire Department. He sustained five gunshot wounds to his torso, one to his right shoulder and two gunshot wounds to the head.

Each of the rounds fired at the suspect were fatal except for the one to his right shoulder area.

Subsequently, it was determined during the initial investigation by the Homicide Bureau detectives that the suspect was the suspect in the insane person call for service.

The EFRC determined the force used against the suspect was within Department policy. The EFRC also determined the tactics used were within Department policy.

The EFRC deemed as **Founded** the allegation that Deputy Frank Huelga was in violation of the Department's Manual of Policy and Procedures, Section(s) 3-01/030.10, Obedience to Laws, Regulations, and Orders [as it pertains to 3-03/210.05, Revolvers/Semi-Automatic Pistols (On and Off Duty)], on or about August 3, 2012, while on duty and working as a deputy sheriff assigned to Palmdale Station, he failed to conform to the Department's rules when he possessed and used a firearm (Smith and Wesson, 38 caliber, five shot revolver) as a backup weapon during a tactical incident without attending and completing the instructional course conducted by the Weapons Training Staff for that specific class of handgun. He also failed to qualify using the firearm.

RECOMMENDATIONS:

The EFRC recommended Deputy Frank Huelga #[redacted] receive a **written reprimand.** The EFRC also recommended the unit commander, Captain Don P. Ford, conduct a tactical debriefing with all involved personnel regarding the unique circumstances of this incident.

BDD:JER:jer

<u>Table of Contents</u>

Investigation

SH2318393

B- Photographs (5) depicting backyard of [redacted] Larkin Avenue.

C - Photographs (1) depicting flashlight on the ground.

D - Photographs (2) depicting Suspect Ortiz' position near handgun.

E - Crime Scene Sketches (2).

F - Homicide Bureau Investigation, Completed by Detectives Karen Shonka and Wayne Holston.

G - Compact Discs (5), Containing Audio Interviews By Homicide Bureau of Deputies Involved, Witnesses, Photographs of Crime Scene, and Evidence Gathered.

Miscellaneous Documents:

- Administrative Rights Forms

- Los Angeles County District Attorney Letter of Opinion (March 6, 2013)

Los Angeles County Sheriff's Department

Officer Involved Shooting

Report Date: 08/03/12	Bureau/Station/Facility: Palmdale Sheriff's Station	Admin. Invest.? [ ]	Hit? [✓]

Incident Information

URN: 012-18888-2611-013	Date: 08/03/12	Time: 1800 hours
City or Station: Palmdale Station	Nature of Incident: Deputies followed the suspect into back yard in order to detain him for assault. The suspect fought and took a deputy's gun from his holster. a fight over the gun ensued and deputies shot suspect.	
Location: [redacted] Larkin Avenue, Palmdale		

Location Type (*check one or more*):
- [✓] Backyard
- [ ] Beach
- [ ] Business
- [ ] Freeway
- [ ] Industrial
- [ ] Park
- [ ] Parking Lot
- [✓] Residence
- [ ] Rural
- [ ] School
- [ ] Street
- Other:

Lighting (*check only one*):
- [ ] Darkness
- [✓] Daylight
- [ ] Other
- [ ] Street Lights

Weather (*circle only one*):
- [✓] Clear
- [ ] Cloudy
- [ ] Fog
- [ ] Rain

Distance: 1' to 3'

Incident Type (*check one or more*):
- [ ] Accidental
- [✓] Armed Person
- [✓] Fleeing Suspect
- [ ] Foot Pursuit
- [✓] Gun Take Away
- [ ] Moving Vehicle
- [ ] Sniper/Ambush
- [ ] Startle
- [✓] Struggle Involved
- [ ] Traffic Stop
- [ ] Unarmed Person
- [ ] Unintentional
- [ ] Vehicle Pursuit
- [ ] Warrant Service
- [ ] Warning Shot
- Other:

Initiated by (*check only one*):
- [ ] Arrest Warrant
- [✓] Call
- [ ] Observation
- [ ] One Person Unit
- [ ] Other
- [ ] Search Warrant
- [ ] Two Person Unit

Prior Activity (*check only one*):
- [ ] Detective
- [ ] Inmate Transport
- [ ] Other
- [✓] Routine Patrol

Aero Unit? [✓] Canine Unit? [ ]

Total # of Shots Fired by Deputy	Total # of Shots Fired by Suspect
Dep. #1, 5/Dep #2, 3	1

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*check only one*)	ShiftType (*check only one*)
[redacted]	Huelga	Frank		[ ] EM [✓] PM [ ] Day	[✓] Regular [ ] Overtime [ ] Off Duty
[redacted]	Poteracki	Christopher	J.	[ ] EM [✓] PM [ ] Day	[✓] Regular [ ] Overtime [ ] Off Duty
				[ ] EM [ ] PM [ ] Day	[ ] Regular [ ] Overtime [ ] Off Duty

Non-Employee Witnesses

Last Name		First Name			M.I.
Street Address	City	Zip Code	Work Ph	Home Ph	
Last Name		First Name			M.I.
Street Address	City	Zip Code	Work Ph	Home Ph	
Last Name		First Name			M.I.
Street Address	City	Zip Code	Work Ph	Home Ph	

Supervisors

Employee #	Last Name	First Name	M.I.	(*check one or more*)
[redacted]	Zarris	Paul	R.	[✓] On Duty [ ] Present during shooting [ ] Witness to shooting [ ] Involved in shooting
				[ ] On Duty [ ] Present during shooting [ ] Witness to shooting [ ] Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
[redacted]	Sauer	David	R.

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	Sylvies	Steven	L.

PSTD Use Only
SH # 2318393

Officer Involved Shooting

URN: ______

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
08/03/12	2110	08/06/12	

Employee #	Last Name	First Name	M.I.
[redacted]	Garcia	Jose	J.
[redacted]	Quichocho	Frank	J.
[redacted]	Libertone	Patrick	L.

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(SS) SIG Sauer
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S #1	E #1	PH					NN	
E #1	S #1	PH						
E #2	S #1	PH/CT					NN	
S #1	E #1	FH	BR	9MM			NN	
E #1	S #1	FH	SW	38	y	y	GS	AD/HE
E #2	S #1	FH	BR	9MM	Y	Y	GS	AD/HE

Officer Involved Shooting
Involved Employee Information

URN: ____________

Involved Employee

E 1

Employee # [redacted]	Last Name: Huelga	First Name: Frank	M.I.: A.
Sex: M Race: Hispan	Rank: Deputy	Unit Assignment: PLM	Work Assignment (Unit #, Module, etc.): 260K
ShiftTime (*circle only one*): ☐ EM ☑ PM ☐ Day	ShiftType (*circle only one*): ☑ Regular ☐ Overtime ☐ Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☑
Hrs of sleep prior to shooting: 8	Duty Time (hrs): [redacted]	Clothing (*circle only one*): ☐ Plain Clothes no Vest ☐ Plain Clothes w/ Vest ☐ Raid Jacket no Vest ☐ Raid Jacket w/ Vest ☐ Uniform no Vest ☑ Uniform w/ Vest	Other Factors: Full Class "A" Uniform
Age: [redacted] Height: 5' 10"	Weight: 160		
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted] Directed Force: [redacted]
Weapons Fired Brand: Smith & Wesson	Caliber: 38	# Shots: 5	Weapons Fired Brand: Caliber: # Shots:
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]

E 2

Employee # [redacted]	Last Name: Poteracki	First Name: Christopher	M.I.: J.
Sex: M Race: White	Rank: Deputy	Unit Assignment: PLM	Work Assignment (Unit #, Module, etc.): 260K
ShiftTime (*circle only one*): ☐ EM ☑ PM ☐ Day	ShiftType (*circle only one*): ☑ Regular ☐ Overtime ☐ Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☑
Hrs of sleep prior to shooting: 8	Duty Time (hrs): [redacted]	Clothing (*circle only one*): ☐ Plain Clothes no Vest ☐ Plain Clothes w/ Vest ☐ Raid Jacket no Vest ☐ Raid Jacket w/ Vest ☐ Uniform no Vest ☑ Uniform w/ Vest	Other Factors: Full Class "A" Uniform
Age: [redacted] Height: 5' 11"	Weight: 190		
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted] Directed Force: [redacted]
Weapons Fired Brand: Berretta 92FS	Caliber: 9MM	# Shots: 3	Weapons Fired Brand: Caliber: # Shots:
Field Training Officer Emp #	Last Name [redacted]	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E ___

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank:	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): ☐ EM ☐ PM ☐ Day	ShiftType (*circle only one*): ☐ Regular ☐ Overtime ☐ Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): ☐ Plain Clothes no Vest ☐ Plain Clothes w/ Vest ☐ Raid Jacket no Vest ☐ Raid Jacket w/ Vest ☐ Uniform no Vest ☐ Uniform w/ Vest	Other Factors:
Age: Height:	Weight:		
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings: Directed Force: ☐
Weapons Fired Brand:	Caliber:	# Shots:	Weapons Fired Brand: Caliber: # Shots:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

See Other Side

Officer Involved Shooting
Suspect Information

URN:

Suspect Information

S 1

Last Name: Ortiz	First Name: Javier	M.I. S.
AKA Last Name:	First Name:	M.I.

Sex: M Race: Hispanic	Street Address: [redacted]	City: [redacted]	State & Zip Code: [redacted]
Work Phone: [redacted]	Home Phone: [redacted]	Social Security #: [redacted]	Driver's License #: [redacted]
Age: 31 D.O.B. 01/25/81	Height: 5' 9" Weight: 230	FBI #: [redacted]	CII #: [redacted]
Booking #: None	Primary Charge: None		Secondary Charge: None
Coroner Case? ☑	Coroner Case #: 2012-05101	Intoxication/Drug Usage? ☑	Substance Used: Methamphetamine
Armed? ☑	Apprehended? ☑	Mental Illness? ☐	Criminal History? [redacted]
Vehicle Make:		Model:	Year:

S

Last Name:	First Name:	M.I.
AKA Last Name:	First Name:	M.I.

Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:		Secondary Charge:
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make: Lincoln		Model: Town Car	Year: 1998

S

Last Name:	First Name:	M.I.
AKA Last Name:	First Name:	M.I.

Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:		Secondary Charge:
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make:		Model:	Year:

S

Last Name:	First Name:	M.I.
AKA Last Name:	First Name:	M.I.

Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:		Secondary Charge:
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make:		Model:	Year:

See Other Side

SHOOTING REVIEW SUMMARY

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY
SH2318393

UNIT:	**Palmdale Sheriff's Station**
DATE:	**August 3, 2012, Friday**
TIME:	**1800 hours**
LOCATION:	**[redacted] Larkin Avenue, Palmdale CA**
URN #:	**012-11888-2611-013**
IAB #:	**SH2318393**

On August 3, 2012, Lieutenant Patrick Libertone, Sergeant Frank Quichocho and Sergeant Jose Garcia of the Internal Affairs Bureau responded to the Command Post, located at 6th Street East and East Avenue Q, Palmdale. This was in regards to a deputy involved hit shooting, where the suspect was deceased. Palmdale Station Deputies Frank Huelga #[redacted] and Christopher Poteracki #[redacted] were involved in the shooting with Suspect Javier Salvador Ortiz in the back yard of a home located at [redacted] Larkin Avenue, Palmdale.

This incident originated as a call for service, Tag 294 at 1748 hours. The call indicated that an insane person was running east on Palmdale Boulevard from 15th Street East, Palmdale. The insane person was a male Hispanic, 35, wearing black and red basketball shorts. According to the call, the male Hispanic was hallucinating and saying people were trying to kill him. He was possibly high on narcotics and it was unknown if he had any weapons.

Several Palmdale units, including an Aero Bureau helicopter coordinated and were involved in the search for the male Hispanic, but did not find him.

Deputies Frank Huelga and Christopher Poteracki were in the area of 5th Street East and Frontage Road. They were not involved in the insane person call. They heard screaming and saw people chasing one another in the middle of the street in the area of 5th Street East just north of East Avenue Q 7. The deputies approached the people on the street and contacted a male (Witness [redacted]. As the deputies approached, a male (Suspect Ortiz) fled on foot southbound through the houses.

Witness [redacted] identified himself as an off duty Los Angeles Police Sergeant. He told the deputies that a male (Suspect Ortiz) assaulted him and his girlfriend (Witness [redacted] with a metal pipe. The contact with Witnesses [redacted] and [redacted] lasted approximately thirty seconds. The deputies began to check the area for the suspect.

No crime broadcast was initiated by either of the two deputies at the time that they began their search. Deputy Poteracki said he did not broadcast the information because most units were busy handling an insane person call and were busy. Deputy Huelga said he did not broadcast the information because there was little time to broadcast while they looked for the suspect.

Approximately two minutes after contacting Witness [redacted] and [redacted] they traveled southbound on Larkin Avenue and they saw Suspect Ortiz standing in front of [redacted] Larkin Avenue. Suspect Ortiz ran westbound into the backyard of [redacted] Larkin Avenue. Deputies Poteracki and Huelga travelled westbound through the driveway of [redacted] Larkin Avenue located one property south of [redacted] Larkin Avenue.

As they approached the end of the driveway they could see Suspect Ortiz running westbound through the adjacent yard, approaching the west property line, a cinder block wall.

Deputy Huelga exited the radio car, jumped over a four feet chain-link fence dividing the properties and into the back yard of [redacted] Larkin Avenue, behind Suspect Ortiz. He drew his firearm and ordered Suspect Ortiz to stop numerous times.

During this time, neither of the deputies broadcast their location or involvement with an assault suspect.

Suspect Ortiz tried to scale the cinder block wall but was unable to. He moved to the northwest corner of the yard and began to climb a four feet chain-link fence which divided [redacted] Larkin Avenue with the property to the north, an empty lot. Suspect Ortiz then began to scale a six feet cinder block wall, dividing the property with the property to the west.

Deputy Huelga said he believed Suspect Ortiz may escape if he allowed him to go over the wall so he holstered his firearm and snapped it in his holster. By this time, Deputy Poteracki was in the yard next to Deputy Huelga.

Deputy Huelga grabbed Suspect Ortiz by the rear waistband of his shorts and pulled him off the wall, back into the property. Suspect Ortiz landed on his feet and quickly turned toward Deputy Huelga. Suspect Ortiz punched toward Deputy Huelga upper body several times. Deputy Poteracki approached Suspect Ortiz to the left of Deputy Huelga. The two deputies faced the suspect.

Deputy Huelga punched Suspect Ortiz approximately two to three times on his head, but the punches had no effect on Suspect Ortiz. Deputy Huelga immediately felt tremendous pain in his right hand after punching Suspect Ortiz.

Deputy Poteracki punched Suspect Ortiz on the stomach and right rib area approximately two to three times, but the punches had no effect on Suspect Ortiz.

Deputy Poteracki grabbed Suspect Ortiz in a bear hug from behind, by grabbing his upper torso around and over his shoulders and upper arms. His intentions were to take Suspect Ortiz to the ground. Suspect Ortiz continued to fight and Deputy Poteracki was not able to take him down.

During this fight, Deputy Huelga felt Suspect Ortiz pull him toward him. Deputy Huelga was not sure if Suspect Ortiz pulled him by his belt or his uniform. Deputy Huelga did not want to be that close to him so he pushed the suspect away to create distance. Deputy Poteracki continued to hold Suspect Ortiz in a bear hug, around his shoulders from behind and Deputy Huelga fought Suspect Ortiz from the front.

Just as Deputy Huelga created distance from Suspect Ortiz, Suspect Ortiz suddenly raised a gun with both hands pointing it at Deputy Huelga. Deputy Huelga yelled out, "Gun, gun!"

Deputy Poteracki let go of the bear hug and while remaining behind the suspect he grabbed the handgun in Suspect Ortiz' hands. He struggled with Suspect Ortiz and pointed it away from Deputy Huelga. Simultaneously, Deputy Huelga moved to his left away from Suspect Ortiz and the direction of the handgun's barrel. As Deputy Huelga moved away from the line of gunfire, he reached for his duty handgun and noticed his handgun was not in its holster. He quickly realized that Suspect Ortiz had taken his handgun from his holster.

As Deputy Poterack struggled with Suspect Ortiz over the handgun, Suspect Ortiz fired one round from the handgun, possibly in a northeasterly direction, missing Deputy Huelga.

Believing that Suspect Ortiz was trying to kill him or both deputies, Deputy Huelga quickly drew his back up firearm (Smith & Wesson, 38 Caliber, five shot Revolver) from his left front pants' pocket and transitioned it to his right hand.

He quickly moved close to Deputy Poteracki's right shoulder and approximately one foot away from Suspect Ortiz, where he fired approximately two to three rounds at the right side of his torso.

Suspect Ortiz and Deputy Poteracki began to fall to the ground while the struggle for the handgun continued. The two landed on their left sides on the ground.

While on the ground and struggling with Suspect Ortiz, Deputy Poteracki let go of the suspect's handgun with his right hand and continued to hold him with his left hand. He drew his firearm and fired three rounds at Suspect Ortiz' right and back torso area from a distance of approximately one foot away. Simultaneously Deputy Huelga fired two more rounds at Suspect Ortiz' head area from a distance of approximately one foot away.

Suspect Ortiz let go of the handgun and stopped moving on the ground. The two deputies stood over Suspect Ortiz and detained him at gunpoint as Deputy Poteracki broadcast and assistance request to Palmdale Station units via his handheld radio.

The estimated time between the initial contact with Witnesses [redacted] and [redacted] until they saw Suspect Ortiz on Larkin Avenue took approximately two minutes. The estimated contact, fight and shooting in the back yard with Suspect Ortiz lasted approximately under thirty seconds.

Suspect Ortiz was pronounced dead at the scene by personnel from the Los Angeles County Fire Department. Suspect Ortiz sustained five gunshot wounds to his torso, one to his right shoulder and two gunshot wounds to the head. Each of the rounds fired at Suspect Ortiz were fatal except for the one to his right shoulder area.

Subsequently it was determined during the initial investigation by the Homicide Bureau detectives that Suspect Ortiz was the suspect in the insane person call for service.

> **IAB Note:** Internal Affairs Bureau Lieutenant Patrick Libertone contacted Watch Commander, Steve Sylvies #[redacted] to ensure reasonable steps were taken to see that the involved personnel and witness did not discuss the incident among themselves or with uninvolved persons prior to being interviewed by the assigned investigators.

In addition, Internal Affairs Bureau Lieutenant Libertone asked the Watch Commander to have involved and witness personnel in the company of a supervisor (Watch Sergeant Dennis Dubois #[redacted] until they have provided a statement to the assigned investigators.

IAB Note: The summary of this incident is based on physical evidence collected at the scene by Los Angeles County Sheriff's Department Crime Lab personnel, IAB investigator's observations, as well as information obtained from the original crime report. Additional information is obtained from supplemental reports, along with interviews of the involved employees and witnesses *(Refer to **Exhibits A through G**).*

INVOLVED PERSONNEL:

Huelga, Frank, Deputy Sheriff, #[redacted]
Field Operations Region I
Palmdale, Partners Against Crime Team

Work History:

Date of Employment: August 2, 2006
Date Assigned to Patrol:
Date Completed Patrol Training:
Prior Shooting Incidents:
Prior Founded Force Incidents:



[redacted]

Poteracki, Christopher- Deputy Sheriff, #[redacted]
Field Operations Region I
Palmdale, Partners Against Crimes Team

Work History:

Date of Employment: November 13, 2006
Date Assigned to Patrol:
Date Completed Patrol Training:
Prior Shooting Incidents:
Prior Founded Force Incidents:



[redacted]

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY

SUSPECT:

Ortiz, Javier Salvador MH/January 25, 1981
[redacted]

Criminal History:

A review of Javier Ortiz' criminal history in the Consolidated Criminal History System revealed the following convictions:

[redacted]

IAB Note: For further details regarding Javier Ortiz' criminal history, refer to **Miscellaneous Documents, CCHRS.**

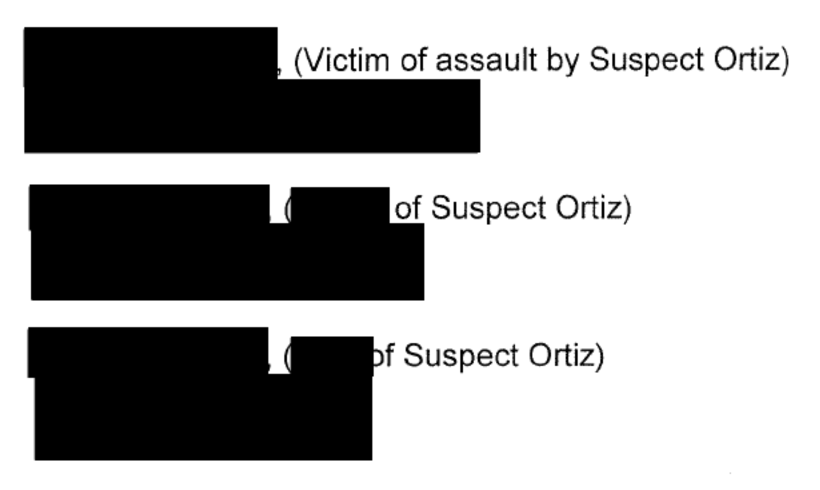
SWORN WITNESSES:

None

CIVILIAN WITNESSES:

[redacted], (Victim of assault by Suspect Ortiz)
Los Angeles Police Department
[redacted]

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY



[redacted], (Victim of assault by Suspect Ortiz)
[redacted]

[redacted], ([redacted] of Suspect Ortiz)
[redacted]

[redacted], ([redacted]f Suspect Ortiz)
[redacted]

INJURIES:

Frank Huelga, Deputy #[redacted], sustained a broken right hand during fight with Suspect Ortiz.

Javier Ortiz (Suspect) sustained eight gunshot wounds. Seven of the eight gunshots were fatal. (Refer to **Exhibit F,** Homicide Book, pages 95-130 for the Autopsy Report).

PHYSICAL EVIDENCE:

On the date of the incident, a GSR (Gun Shot Residue) test on Suspect Ortiz was conducted by Pedro Nagyan of the Los Angeles County Coroner's Office and analyzed by Margaret Kaleuati of the Los Angeles County Coroner's Office. This test revealed many characteristic particles of gunshot residue on both hands of Suspect Ortiz. Therefore, Suspect Ortiz may have discharged a firearm or had his hands exposed to gunshot residue.

> **IAB Note:** For further details regarding the GSR results, refer to **Exhibit H, forensic Science Laboratories Analytical Report.**

Additional physical evidence related to the crime scene, collection of evidence (Refer to **Exhibit F**, Homicide Book, page 81) and crime scene sketches (**Exhibit E**).

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY

INVESTIGATORS' OBSERVATIONS:

Responding Internal Affairs Bureau Sergeants were escorted through the crime scene by Lieutenant Holly Francisco of the Homicide Bureau. The following observations were pointed out and made by Sergeant Garcia, Sergeant Quichocho and Lieutenant Libertone of the Internal Affairs Bureau:

The walk through was limited to the crime scene on Larkin Avenue only and not on 5th Street East, where Suspect Ortiz assaulted Witnesses [redacted] and [redacted]

The home located at [redacted] Larkin Avenue had an east to west driveway on the north side of the home. The driveway was wide enough for two vehicles. Four vehicles were parked in the driveway of the home, all facing west.

A Plymouth Lazer was on the far west end of the driveway near the north perimeter chain link fence. A Dodge Neon was parked behind the Plymouth near the north perimeter chain link fence. A Mazda pickup was parked behind the Dodge near the north perimeter chain link fence. A Honda was parked on the west end of the driveway near the home. Also behind the Honda was Deputy Poteracki and Deputy Huelga's radio car, facing west. This driveway was just south of [redacted] Larkin Avenue, Palmdale.

> **IAB Note**: For further details regarding the position of vehicles in the driveway of [redacted] Larkin Avenue in relation to [redacted] Larkin Avenue, refer to **Exhibit A, Photographs (7) depicting position of vehicles in driveway.**

The area where the shooting occurred was the back yard of a home located at [redacted] Larkin Avenue, Palmdale. The back yard consisted of dry grass and was clear of any large objects or obstructions, except for a tree on the west end of the yard. Access to this back yard could be made through a gate in front of the home on the north side of the house as well as a gate on the south side of the house.

> **IAB Note**: For further details regarding the back yard of [redacted] Larkin Avenue, refer to **Exhibit B, Photographs (5) depicting the back yard.**

A black flashlight was on the ground, inside the yard at [redacted] Larkin Avenue, approximately one foot away from the south perimeter chain link fence, near the Dodge in the driveway of [redacted] Larkin Avenue.

> **IAB Note**: For further details regarding the position the flashlight, refer to **Exhibit C, Photograph (1) depicting the flashlight.**

Suspect Ortiz' body was in the back yard of [redacted] Larkin Avenue on the northwest corner of the property. Suspect Ortiz' body was laying on his left side with his feet to the east and head to the west. His face and upper torso was facing north. His head was several inches away from the west cinder block wall and his toes were touching the north perimeter chain link fence.

Suspect Ortiz was wearing a black t-shirt which had been pulled up to his upper torso exposing three gunshot wounds to his right torso area. He wore black shorts with a red stripe on each side and a pair of dirty white sox with no shoes.

Approximately four feet away behind Suspect Ortiz was a black handgun (Berretta 92FS) with a magazine seated in its well. The safety was on the fire position. North of [redacted] Larkin Avenue was an empty dirt lot.

> **IAB Note**: For further details regarding the position Suspect Ortiz and the handgun, refer to **Exhibit D, Photograph (2) depicting Suspect Ortiz' position near the handgun.**

> **IAB Note:** For further detail regarding the crime scene sketches, refer to **Exhibit E, Crime Scene Sketches.**

WEAPONS USED BY DEPUTY PERSONNEL:

Deputy Huelga fired five rounds from his Smith & Wesson revolver Model 642-2, caliber 38 Special (Five round capacity), bearing serial number DAN[redacted], utilizing department approved caliber 38 ammunition. The weapon and ammunition were found to be within departmental; specifications (Refer to **Exhibit F**, Homicide Book, page 86 for firearm description).

Deputy Huelga had not taken the revolver course entitled "Off Duty Revolver Course" and was not certified to use the Smith &Wesson Revolver at the time of this incident. He had not qualified with this weapon prior to the shooting.

IAB Note: For further details regarding Deputy Huelga's Shooting/Training Records, refer to **Miscellaneous Documents.**

Deputy Poteracki fired three rounds from his departmental issued Berretta 92FS, Caliber 9mm, bearing serial number BE[redacted] utilizing departmental approved 9mm ammunition.

The weapon and ammunition were found to be within departmental specifications (Refer to **Exhibit F**, Homicide Book, page 86 for firearm description).

WEAPONS USED BY SUSPECT:

Suspect Ortiz armed himself with Deputy Huelga's handgun, a Berretta model 92FS, Caliber 9mm, bearing the serial number H[redacted] Suspect Ortiz fired one round from the Berretta during the struggle with the deputies.

The Berretta was recovered from the ground with an expended casing in the chamber and a magazine containing 15 live caliber 9mm rounds.

PROPERTY DAMAGE:

None

CRIMINAL INVESTIGATOR/CHARGE FILED:

None

Suspect Deceased.

LIGHTING AND WEATHER CONDITIONS:

The shooting took place during day light hours with clear skies and weather.

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY

INVOLVED EMPLOYEE STATEMENTS:

Deputy Huelga:

Frank Huelga, Deputy #[redacted] Palmadale Sheriff's Station was interviewed on October 31, 2013, by Sergeant Jose Garcia and Sergeant Mark Lopez of the Internal Affairs Bureau. Deputy Huelga was represented by Elizabeth Gibbons of Green & Shinee. The interview took place at the Internal Affairs Bureau and it was audio recorded. The following is a summary of the interview:

Deputy Huelga said that on August 3, 2012, he was assigned to Unit 260K, a two man radio car with Deputy Christopher Poteracki in Palmdale. They started their shift at [redacted] hours.

At approximately 1800 hours, they were in the area of Frontage Road and 5th Street East. They were discussing where they were going to eat and he was not aware of any call of an insane person being handled in the area via their radio.

As they travelled east on Frontage Road and stopped at 5th Street East, he noticed what appeared to be persons chasing one another on 5th Street East, just north of their location. He heard someone screaming and did not know if the persons were experiencing an emergency or if they were being playful.

The two deputies communicated their observations to one another and they traveled north toward the commotion.

Upon their approach, he saw a female (Witness [redacted] yelling hysterically and they were approached by a male (Witness [redacted], who identified himself as an off-duty Los Angeles Police Sergeant. He said he and Witness [redacted] had just been assaulted by a male (Suspect Ortiz), who ran away.

Deputy Huelga said he and Deputy Poteracki did not exit their radio car and did not notice any injuries on either of the Witnesses at that time. Their contact with the two witnesses lasted only several seconds.

Witness [redacted] provided the deputies with a physical description of Suspect Ortiz and pointed south through the homes, at the direction he was last seen.

Deputy Huelga and Deputy Poteracki patrolled the two streets south where Suspect Ortiz may have gone to but could not find him. They discussed returning to Witnesses' [redacted] and [redacted] location in order to take a report and provide any assistance. The deputies traveled south on Larkin Avenue once again in search for Suspect Ortiz and Deputy Poteracki told Deputy Huelga that he saw Suspect Ortiz on Larkin Avenue. Deputy Huelga said he did not see Suspect Ortiz on the street as Deputy Poteracki did.

The deputies traveled south on Larkin Avenue and Deputy Poteracki turned west into the driveway of [redacted] Larkin Avenue.

As the radio car came to a stop in the driveway, Deputy Huelga could now see Suspect Ortiz in the back yard of [redacted] Larkin Avenue, one property north of them. Deputy Huelga exited the radio car, jumped a short chain link fence and entered the back yard of [redacted] Larkin Avenue.

> **IAB Note:** the backyard of [redacted] Larkin Avenue was clear of any obstacles and / or plant life. The yard consisted of dry grass with one single tree located on the west end of the yard against the property line. The west property line was a six feet cinder block wall. The north and south property lines each consisted of chain link fences. For further details regarding the backyard, refer to **Exhibit B, photographs depicting backyard.**

Deputy Huelga entered the back yard and immediately drew his duty firearm. He said he intended on detaining Suspect Ortiz at gunpoint as he yelled out commands for the suspect to stop and to show his hands.

Suspect Ortiz never looked back at Deputy Huelga during his commands and instead continued to try scaling the west cinder block wall. While trying to scale the wall, Suspect Ortiz moved north along the wall.

Deputy Huelga saw Suspect Ortiz move the northwest corner of the yard along the west wall. Suspect Ortiz climbed the north perimeter chain link fence then began to throw his upper body over the west wall.

Deputy Poteracki was now standing near Deputy Huelga also yelling commands at Suspect Ortiz.

Deputy Huelga said he made sure he holstered his handgun and snapped the holster's retention snap in place to secure it.

In order to keep Suspect Ortiz from jumping over the wall and escaping, Deputy Huelga grabbed Suspect Ortiz by the rear waist band of his shorts and pulled him off the wall.

Suspect Ortiz slid down from the wall, landed on his feet and immediately turned counter clockwise toward Deputy Huelga.

Deputy Huelga lost his hold of Suspect Ortiz' waistband and held onto Suspect Ortiz' shirt with his left hand as Suspect Ortiz began to flail his hands toward Deputy Huelga.

Deputy Huelga feared that Suspect Ortiz was going to hit him on the face and break his glasses so he threw a right hand punch toward the suspect's face but struck him on the left side of the head. This punch had no effect on Suspect Ortiz. Deputy Huelga immediately felt an excruciating pain to his right hand and punched him two additional times with the right hand but the punches had no effect on Suspect Ortiz.

Deputy Huelga knew Deputy Poteracki was also involved in the fight but does not remember what Deputy Poteracki was doing. The fight continued and Deputy Huelga threw several left hand punches at the suspect's right torso area but does not remember if the punches connected.

During the fight, Deputy Poteracki grabbed Suspect Ortiz from behind in an attempt to take him down.

Deputy Huelga said he was confused and in shock that he and Deputy Poteracki were not able to overcome Suspect Ortiz in this fight.

Deputy Huelga said that after he threw a left punch, he felt Suspect Ortiz pull him toward him. He did not know if suspect Ortiz pulled him by the belt or by his uniform, but felt a distinct feeling of being pulled in.

Deputy Huelga said he did not want to be that close to Suspect Ortiz so he instinctively pushed away from the suspect with both hands in order to create distance. He said he recalled knocking himself backward by pushing Suspect Ortiz. As he created a distance of approximately three to four feet from Suspect Ortiz, he saw Suspect Ortiz raise both his hands while pointing a handgun at him.

He described Suspect Ortiz' stance as standing with both hands extended out while holding a gun pointed at him.

Deputy Huelga believed Suspect Ortiz was going to shoot him so he quickly moved to his left away from the line of fire as he reached for his duty firearm but realized his duty firearm was not in his holster and was taken by Suspect Ortiz. He yelled out "gun, he's got my gun."

Deputy Huelga said Deputy Poteracki had been behind Suspect Ortiz trying to do a take down while looking downward and did not look up until he yelled out "gun." Deputy Poteracki, while behind Suspect Ortiz immediately placed his hands over the gun. Deputy Poteracki and Suspect Ortiz began to struggle over the direction of the gun.

Simultaneously, Deputy Huelga drew his back up revolver from his left front pocket with his left hand and transitioned it to his right hand. He said that during the struggle over the gun, Suspect Ortiz fired what he believed were two rounds. Deputy Huelga thought that he could have been shot if he had not moved out of the way.

Deputy Huelga believed he could finish the problem if he approached Suspect Ortiz and applied a head shot but did not want to jeopardize Deputy Poteracki's safety as he still behind and so close to Suspect Ortiz. Instead he approached Suspect Ortiz' right torso area and shot him once on his side.

IAB Note: The following is an excerpt from Deputy Huelga's transcribed interview on October 31, 2013, beginning on page 14.

Huelga: No. I don't remember the muzzle flash. I just remember two shots and going through my head, I was like not only did I just get my gun taken away, which is, it's even hard to talk about right now. I just put not only my life in jeopardy, but I just endangered my partner's life. And that, my partner's life was something that really got to me, because I was like, I couldn't have, if, ugh, I, even talking about it kind of shakes me up. Just the thought of if he would have got shot with my gun, I, I don't know, I don't even, I can't even think about it. So I pull out my, my backup gun. I'm not that far away from him, but I, I sprint, it's only a couple steps away, up to the suspect.

> Chris, I could, Chris looks at me and I can tell he's like handle it, I could tell he's telling me to handle it, but I was so paranoid that my round could, because he was, first thought was contact shot to the head. I'm just going to go contact shot to the head, be done with it. This guy just tried to kill me. He's trying to...it, it, it is what it is. He's trying to kill me. He has my gun. He shot my gun at me. He's trying to kill me, but Chris's head was so mixed up and so close to the guy when he was wrestling for my gun, I was like, I didn't want to chance it. So I walked, I, I kind of angle my gun into his ribcage and I try to point it away from Chris as, as good as I could and then I pull the trigger at least once, truly once is what I remember, that I pulled the trigger once. When I heard the bang, his body kind of slumped a little bit and Chris, I could tell had a little bit more control, because then Chris was able to move him. I know, I know I tunnel-visioned, because everything after I shot, everything just went, woop, just everything was just super small. It was, it blew my mind that I was in this situation at first, in the first place. Suspect kind of rolls, rolls to my left and all I can see is the suspect and still the gun in my hand and he's still moving, which I'm like I just shot this guy and this guy is still fighting.

Suspect Ortiz though he was falling, continued to move and kept his arms extended out with the gun in his hands.

Suspect Ortiz and Deputy Poteracki began to turn counter clockwise and Deputy Huelga could not shoot at Suspect Ortiz. It was at this time that Deputy Poteracki may have shot at Suspect Ortiz. Deputy Huelga was unsure of how many times Deputy Poteracki shot at Suspect Ortiz or what part of the body he shot at.

Suspect Ortiz and Deputy Poteracki both began to fall to the ground at which time Deputy Huelga shot Suspect Ortiz on the head from a standing position. He said Suspect Ortiz fell to the ground and dropped the gun near his body. Deputy Huelga continued to point his revolver at Suspect Ortiz in fear that he would grab the gun again as Deputy Poteracki broadcast an assistance request via his handheld radio.

Deputy Huelga was asked if he knew how the suspect could have taken his gun and he said he did not know. He added that he made sure he holstered the gun and snapped the retention hood into place in order to retain his gun. He said he did this because he knew he was going to come in contact and put his hands on the suspect.

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY

Deputy Poteracki:

Christopher Poteracki, Deputy #[redacted] Palmadale Sheriff's Station was interviewed on November 8, 2013 by Sergeant Jose Garcia of the Internal Affairs Bureau. This interview was conducted via telephone and it was audio recorded. The following is a summary of the interview:

Deputy Poteracki left the Sheriff's Department on December 16, 2012 and moved to Ogden Utah where he now works for Ogden Police Department as of April 1, 2013.

Deputy Poteracki said that on August 3, 2012, he was assigned to a two man radio car with Deputy Frank Huelga in Palmdale. He was driving and Deputy Huelga was the bookman. At approximately 1800 hours, they were in the area of Frontage road and 5th Street East. As they travelled east on Frontage Road and stopped at 5th Street East, he noticed a male (Suspect Ortiz) chasing a female in the area of 5th Street East north of their location. He stopped the radio car at 5th Street East and observed the chase and was not sure if it was an emergency or adults playing.

They approached the people on the street and he saw Suspect Ortiz run west through the properties away from the street. They were approached by Witness [redacted] who identified himself as an off-duty Los Angeles Police Sergeant. He said he and his girlfriend, Witness [redacted] had just been assaulted by Suspect Ortiz, who had just run away.

Deputy Poteracki said he did not notice any physical injuries on either Witness [redacted] or Witness [redacted] at the time. At the time of this contact with Witness [redacted] he perceived this incident to be a felony type of assault.

Witness [redacted] provided the deputies with a physical description of Suspect Ortiz. Deputy Poteracki said that that approximately three minutes prior to this incident, he heard a call broadcast via the radio in regards to an insane person in another area and believed it was not related to this incident. He estimated the contact with the witnesses to be approximately thirty seconds.

Deputy Poteracki was asked if he relayed the information of an assault suspect via the radio to any other units and he said he did not because he believed no other unit was in the immediate area as they were all working the insane person call in another area.

Deputy Huelga and Deputy Poteracki patrolled northbound on 5th Street East to westbound Avenue Q-3 to southbound Larkin Avenue to westbound on Avenue Q-7 to northbound 4th Street East to eastbound Avenue Q-3. As they traveled on Avenue Q-3 in search for the suspect, they came to Larkin Avenue again and Deputy Poteracki saw a Suspect Ortiz standing in the middle of Larkin Avenue.

He drove toward Suspect Ortiz and Suspect Ortiz appeared to notice their approach. Suspect Ortiz ran westbound into the driveway of [redacted] Larkin Avenue. Deputy Poteracki drove into the driveway of [redacted] Larkin Avenue and parked the radio car in the driveway. As he stopped the radio car, he could see Suspect Ortiz in the adjacent property ([redacted] Larkin Avenue) walking westbound through the backyard toward a six feet tall cinder block wall. Suspect Ortiz arrived at the wall and tried to scale it.

Deputy Poteracki described the back yard of [redacted] Larkin Avenue as clear of any objects with a tree in the middle of the yard near the west cinder block wall with nothing obscuring his visual contact of the suspect. He said he could not see Suspect Ortiz' hands until he tried to climb over the west wall. He said he saw the suspect was wearing a t-shirt and basketball shorts.

Deputy Huelga exited the radio car and jumped over a small chain link fence into [redacted] Larkin Avenue and approached the suspect. Deputy Huelga drew his firearm and yelled commands toward Suspect Ortiz to stop.

Suspect Ortiz was not complying with the orders and continued his attempt to climb the wall. Suspect Ortiz never looked back toward the deputies. He began to move north toward the northwest corner of the yard and Deputy Huelga continued to yell out orders.

Deputy Poteracki jumped over the fence into the backyard behind Deputy Huelga, but fell over the fence into [redacted] Larkin Avenue. He quickly ran toward Deputy Huelga who continued to yell commands for the suspect to stop.

As he came to Deputy Huelga's side, he saw that Suspect Ortiz had placed his upper body over the wall and was about to make it over to the property to the west.

Deputy Huelga holstered his firearm, approached Suspect Ortiz and grabbed him in order to pull him down off the wall. Deputy Huelga was able to pull Suspect Ortiz down as he continued to yell commands at the suspect. Suspect Ortiz landed on his feet, quickly turned facing Deputy Huelga and threw a punch toward Deputy Huelga.

Deputy Huelga let go of Suspect Ortiz' waistband and threw approximately three punches with his right hand at Suspect Ortiz in return. These punches had no effect on Suspect Ortiz.

Deputy Poteracki positioned himself at the left of Deputy Huelga and had not drawn his firearm at this time. Deputy Poteracki punched Suspect Ortiz on his right rib cage area several times, but the punches had no effect on him. Suspect Ortiz continued to move toward and punch Deputy Huelga. At this point, Suspect Ortiz squared off and faced Deputy Huelga.

Deputy Poteracki said that Suspect Ortiz appeared to be focused on Deputy Huelga and did not acknowledge Deputy Poteracki's presence during the fight.

Deputy Poteracki believed that if he applied a bear hug on Suspect Ortiz from behind, he may be able to take him down. He moved behind Suspect Ortiz and bear hugged Suspect Ortiz around his shoulders from behind.

Deputy Poteracki could not see Suspect Ortiz' hands while he held him in a bear hug. He tried to push his weight toward Suspect Ortiz in order to push him to the ground.

He could see that Deputy Huelga and Suspect Ortiz were inches away from one another making contact. Deputy Huelga suddenly yelled, "gun, gun." Deputy Huelga took several steps back and to the suspect's right. Deputy Poteracki was able to see Suspect Ortiz raise both of his hands at his own eye level, pointing a handgun at Deputy Huelga. Deputy Poteracki initially believed the suspect pulled the handgun out of his own waistband and was now aiming the handgun at Deputy Huelga.

Deputy Poteracki quickly loosened his arms from around Suspect Ortiz' shoulders and reached toward the handgun grabbing it with both of his hands. He was able to force the direction of the gun away from Deputy Huelga. He said Suspect Ortiz fired the gun approximately two times missing Deputy Huelga.

Deputy Huelga placed himself to the right of Deputy Poteracki's shoulder, making contact with him. From that position, Deputy Huelga fired his handgun more than once at Suspect Ortiz' right torso area.

Suspect Ortiz fell to the ground on his left side while still maintaining a grip on the handgun and struggling to retain it.

Deputy Poteracki and Suspect Ortiz were both on the ground, on their left sides and Suspect Ortiz was still struggling. From the ground position, Deputy Poteracki removed his right hand from the grip of the suspect's hands, while maintaining a strong grip with his left hand and drew his firearm.

While maintaining physical contact with Suspect Ortiz, he fired several rounds at his back area and his head. Suspect Ortiz' body went limp and Deputy Poteracki was able to take the gun from Suspect Ortiz' hands. He stood up and quickly dropped the handgun on the ground in order to preserve the crime scene.

Deputy Poteracki checked with Deputy Huelga to see if he was injured and broadcast an assistance request via his handheld radio. He also requested Patrol personnel to contact Witnesses [redacted] and [redacted]

> **<u>IAB Note:</u>** Deputy Poteracki initiated a radio broadcast and advised Palmdale units that his unit was involved in a shooting and that the suspect was down. He requested rescue for the suspect and a unit to respond to Witnesses [redacted] and [redacted] For further detail regarding this radio broadcast and subsequent radio traffic, refer to **Exhibit G, CD's containing voice print.**

Deputy Poteracki was asked how much time elapsed during his initial contact with Witnesses [redacted] and [redacted] until he saw Suspect Ortiz on Larkin Avenue and he said it took approximately two minutes. He was asked to estimate how long the contact, fight and shooting in the back yard with suspect Ortiz lasted and he said it may have taken under thirty seconds.

<u>WITNESS STATEMENTS</u>

[redacted]

Witness [redacted] (Off-Duty Los Angeles Police Sergeant), was interviewed by Sergeant Jose J. Garcia via telephone on June 18, 2013. The interview was audio recorded. The following is a summary of the interview:

Witness [redacted] said he drove his [redacted] (Witness [redacted]) to [redacted] 5th Street East to inspect her rental property.

He sat in and parked his truck across from the location against the curb facing south as Witness [redacted] walked to the rental property.

Approximately two minutes later he saw Witness [redacted] running from the rental property away from a male (Suspect Ortiz) who was chasing her and swinging what appeared to be a pipe at her back. Witness [redacted] was screaming and appeared terrified. Witness [redacted] exited his truck and placed himself between Suspect Ortiz and Witness [redacted]

Suspect Ortiz turned toward Witness [redacted] and began to strike him with what now appeared to be a piece of white metal tubing.

Suspect Ortiz struck Witness [redacted] on his head and arm approximately three to four times. He felt himself bleeding across his forehead and he saw his arm bleeding.

Witness [redacted] identified himself as a police officer but Suspect Ortiz ignored what he said and continued to swing the pipe. He said that Suspect Ortiz appeared to be in control of his physical capabilities as he was able to strike him over and over with the pipe. Witness [redacted] said that as he was being struck by Suspect Ortiz, he feared becoming disabled so he drew his off-duty firearm (Ruger LCP, caliber 9mm) and pointed it at suspect Ortiz, at which time Suspect Ortiz turned away and ran from him.

> **IAB Note:** The following is an excerpt from Witness [redacted] interview of June 18, 2013, beginning on page 11.

Garcia: Now, in, in terms of, when you drew down, did you at any time feel that you could, you could use deadly force on this guy? Did, did you feel anything like that along those...did you feel threatened enough to use deadly force?

[redacted]: Yes, sir. I drew my weapon with the intent to shoot him.

Garcia: Now why is that, sir?

[redacted]: Pardon me?

Garcia: Why is that? Why, why did you feel that?

[redacted] Because I'd been...I knew he was hitting me with a metal pipe and I felt that at any point, I was going to become disabled and then he would have, you know, whether he, you know, took my, went into my pockets, to try to rob me or whatever, I knew he'd be armed with my firearm, and to the point I felt, you know, this is, I could be rendered unconscious, I'd been hit in the head several times. At that point I decided to draw my firearm.

Garcia: And you did not shoot because?

[redacted] He turned his back and he ran...

Before Witness [redacted] could call the police, he saw a two man Sheriff's unit (Deputies Huelga and Poteracki) arrive. He advised the two deputies that he and Witness [redacted] had just been attacked by Suspect Ortiz with a pipe. Deputies Huelga and Poteracki drove away in order to find Suspect Ortiz.

Moments later, another Sheriff's unit arrived and remained with them until paramedics arrived to treat their injuries.

Witness [redacted] injuries consisted of five small lacerations to the left side of his forehead, several small lacerations to his left forearm and a smaller laceration to his right inner elbow.

Witness [redacted]

Witness [redacted], [redacted] was interviewed on June 20, 2013, at [redacted]. The interview was conducted by Sergeant Jose J. Garcia of the Internal Affairs Bureau and the interview was audio recorded. The following is a summary of the interview:

Witness [redacted] said her [redacted] (Witness [redacted]) drover her to one of her rental properties located at [redacted] 5th Street East, Palmdale for a routine inspection. The property is located on the [redacted] of 5th Street East and Avenue Q 6. Upon their arrival, Witness [redacted] parked across from the location and remained in his truck as she walked to the property. She approached the property's rear yard gate located on the Avenue Q 6 side of the property and saw a male (Suspect Ortiz) outside of the gate, standing in front of her staring at her.

Suspect Ortiz suddenly attacked her with two sharp items in his hand, which could have been knives but was she not sure what they were. He stabbed Witness [redacted] left breast with the sharp object and she moved away from him to avoid being stabbed again. Suspect Ortiz continued his attack as Witness [redacted] ran from him toward the truck. She said she ran so hard she lost her shoes. As she came near the truck, Witness [redacted] exited the truck and stood in between the two asking Suspect Ortiz, "What's going on?" Suspect Ortiz stopped attacking her and began to attack Witness [redacted] with the sharp objects by striking his head and arms.

Witness [redacted] yelled at Witness [redacted] to "shoot him" as she knew Witness [redacted] is a peace officer and was armed with a handgun.

Witness [redacted] was asked why she yelled at Witness [redacted] to shoot Suspect Ortiz.

> **<u>IAB Note:</u>** The following is an excerpt from Witness [redacted] transcribed interview of June 20, 2013, beginning on Page 10.

Garcia: Now at some point, you said that you yelled out shoot him?

[redacted]: Yes.

Garcia: How many times did you yell that to him?

[redacted]: Two, three, five...three or four times.

Garcia: And, and why do you think...why'd you feel compelled to say shoot him?

[redacted]: Because he was out to murder us. He was going to get murdered and it was because of me he came over there. And I saw blood in his head and the way he was attacking me, he was not kidding.

Witness [redacted] drew a firearm toward Suspect Ortiz, at which time Suspect Ortiz quickly stopped his attack and ran away.

Witness [redacted] was asked if Suspect Ortiz' movements or physical actions appeared lethargic and she said they did not. She was asked if his motor skills appeared to be working properly and she said they worked very well and appeared Suspect Ortiz very focused on injuring or killing.

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY

Witness [redacted] said her injuries consisted of a laceration to her left breast near her nipple and bruising to the area.

[redacted]

[redacted], [redacted], was interviewed on August 4, 2012, by Detective Wayne Holston and Detective Karen Shonka of the Homicide Bureau. The interview was audio recorded. The following is a summary of the interview:

Witness [redacted] said he is the [redacted] of Suspect Ortiz. He said Suspect Ortiz moved out of his house in and moved to Suspect Ortiz' [redacted] (Witness [redacted] house at [redacted], where he rented a room.

He explained that Suspect Ortiz was employed at his business and Suspect Ortiz typically opens his shop; however on August 3, 2012, when he arrived at the shop at 0900 hours, he noticed the shop had not been opened and Suspect Ortiz was not there.

Witness [redacted] went to see Suspect Ortiz at approximately 1100 hours at [redacted] after he received a call from Witness [redacted] who told him that Suspect Ortiz was not feeling well and may be drunk. Suspect Ortiz told him he was not feeling well and that is why he did not go to work.

At approximately 1745 hours, Suspect Ortiz arrived at the shop and told Witness [redacted] that he ran from the area of 17th Street East and Palmdale Boulevard because persons were following him. Witness [redacted] told him to stay with him, that they could leave together at closing time, but Suspect Ortiz said no to him and ran away eastbound on Avenue Q-6 toward 5th Street East.

Witness [redacted] arrived at the shop in her vehicle, looking for Suspect Ortiz. She and Witness [redacted] began to look for Suspect Ortiz in her vehicle.

They saw a radio car and followed it to an address on Larkin Avenue. Upon his exiting the truck he ran to the back yards and saw Suspect Ortiz had been shot as he lay on the ground. He said he entered the backyard of [redacted] Larkin Avenue and yelled at the deputies that he was his son and to stop shooting him. One of the deputies detained him at gunpoint.

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY

[redacted]

[redacted], was interviewed on August 4, 2012, by Detective Wayne Holston and Detective Karen Shonka of the Homicide Bureau. The interview was audio recorded. The following is a summary of the interview:

Witness [redacted] said she is the [redacted] of Suspect Ortiz. Suspect Ortiz has been renting a room at her house located at [redacted] for the last three months.

On August 3, 2012, the day of the incident, she went to work and did not get home until approximately 1640 hours. At approximately 0900 hours she spoke to her [redacted] (FH/[redacted]) on the telephone. Ms. [redacted] told her that Suspect Ortiz stayed home and that he was acting "different." Ms. [redacted] added that he appeared stressed about something and was sweaty.

When Witness [redacted] Arrived home and spoke to Suspect Ortiz. She noticed his eyes were bloodshot and asked him what was wrong. He told her that he had body aches and did not go to work. She offered him food but he said he could not eat because his body ached.

During the conversation, Suspect Ortiz told Witness [redacted] that he smelled the strong odor of acetone, which made him sick. Witness [redacted] said she did not smell the odor of acetone.

Witness [redacted] said Suspect Ortiz asked her for her car key but she refused to allow him to take her car at which time he ran away from the house to westbound Palmdale Boulevard. She added that she had never seen Suspect Ortiz act in such a manner. She said he was on probation and did not drink alcohol. She had never seen him drink alcohol while he lived at her home.

Witness [redacted] followed Suspect Ortiz on her truck. Suspect Ortiz arrived at the shop where he worked with his [redacted], located at [redacted] and [redacted] He entered through the front door and quickly exited through the back door. She spoke to Witness [redacted] and he told her to stop following him that the police would detain him. Witness [redacted] drove Witness [redacted] in search of Suspect Ortiz and the police car. Moments later they saw a radio car in the area of Avenue Q 3 and 6th Street East. Witness [redacted] asked her to follow the radio car.

They turned onto Larkin Avenue and saw a radio car in front of [redacted] Larkin Avenue. She stopped the truck and parked, at which time Witness [redacted] exited the truck and ran toward the property.

As Witness [redacted] ran from her truck, she heard three to four gunshots in the rear of the property. As Witness [redacted] approached the property line he yelled "no" at someone in the rear of the property. She believed he was yelling at police to not fire at Suspect Ortiz. She saw Witness [redacted] jump over a fence into the back yard of the property. A male White deputy pointed a handgun toward Witness [redacted] and told him to stop.

Witness [redacted] said when she heard the shots she approached the yard but did not enter the property. She saw Suspect Ortiz on the ground not moving in the corner of the back yard. She added that she had never seen Suspect Ortiz act strange prior to this day and never saw him in possession of any weapons.

She described Suspect Ortiz as a social [redacted] member who used to cook and spend time with her [redacted] however for several days he had become withdrawn and different.

SUSPECT STATEMENTS

None

Suspect Deceased.



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
SHARON J. MATSUMOTO • Chief Deputy District Attorney
JOSEPH P. ESPOSITO • Assistant District Attorney

SCOTT K. GOODWIN • Director

March 6, 2013

Captain David Smith
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

Re: J.S.I.D. File # 12-0506
L.A.S.D. File # 012-11888-2611-013

Dear Captain Smith:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 3, 2012, fatal shooting of Javier Salvador Ortiz by Los Angeles County Sheriff Deputies Frank Huelga and Christopher Poteracki. It is our conclusion that Deputies Huelga and Poteracki acted in lawful self-defense and defense of others.

The District Attorney's Command Center was notified of the shooting on August 3, 2012, at approximately 7:10 p.m. The District Attorney Response Team, comprised of Deputy District Attorney Deborah Delport and District Attorney Senior Investigator [redacted] responded and was given a briefing and a walk-through of the scene.

The following analysis is based on reports prepared by the Los Angeles County Sheriff's Department (LASD), submitted to this office by Investigators Karen Shonka and Wayne Holston, LASD, Homicide Bureau. Deputies Huelga and Poteracki provided voluntary statements which were considered as part of this analysis.

FACTUAL ANALYSIS

On August 3, 2012, at 5:50 p.m., [redacted] drove his [redacted] to check on her rental property located on 5th Street East in the City of Palmdale. [redacted] is a Sergeant with the Los Angeles Police Department. [redacted] parked on the street and waited in his truck as [redacted] walked to the rear of the property. A male, later identified as Javier Salvador Ortiz, angrily approached [redacted] on the sidewalk while holding a metal pipe-like object. Without warning, Ortiz jabbed one end of the metal object into her left breast. [redacted] screamed for help as she ran into the street to escape from Ortiz. Ortiz chased after her.

Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street
Los Angeles, CA 90012-3210
(213) 974-3888
Fax: (213) 620-1208
WEBSITE: http://da.co.la.ca.us

[redacted] saw [redacted] being pursued by Ortiz. [redacted] jumped out of his truck and placed himself between [redacted] and Ortiz. Ortiz swung the metal object at [redacted] head which [redacted] was able to deflect with his arm. [redacted] identified himself as a police officer and repeatedly ordered him to stop. Ortiz ignored his commands and struck him three times on the head with the metal object.[1] [redacted] drew his off-duty firearm which he carried in his back pocket. [redacted] pointed the firearm at Ortiz. Ortiz dropped the pipe on the sidewalk as he fled northbound on 5th Street East.

Deputies Christopher Poteracki and Frank Huelga were in full uniform and assigned to the Partners Against Crime (PAC) marked black and white patrol car.[2] At approximately 5:55 p.m., Poteracki was driving eastbound in the alley north of Palmdale Boulevard heading toward 5th Street East when Huelga heard someone screaming. At the mouth of the alley, the deputies looked north on 5th Street East and saw Ortiz chasing [redacted] in the street. Poteracki saw [redacted] exit his truck and approach them. He then saw Ortiz strike [redacted] with an unknown object.

As the deputies drove northbound on 5th Street East, Poteracki saw Ortiz disappear westbound between two apartment buildings.[3] [redacted] identified himself as an off-duty LAPD Sergeant and briefly spoke with the deputies. Poteracki drove northbound and observed numerous individuals pointing west. The deputies drove around the area in search of Ortiz. As they were driving southbound on Larkin Avenue, Poteracki observed Ortiz standing in the middle of the street.[4] Ortiz ran westbound into a driveway as the deputies approached. As Poteracki pulled into the driveway, Ortiz jumped over a chain link fence into the rear yard of the next door (north) property. Huelga exited the patrol car, ordered Ortiz to stop and followed him over the fence into the yard. Ortiz ignored Huelga's orders and walked to a seven-foot high cinder block wall at the rear of the property and attempted to scale it.

Huelga drew his service weapon and approached Ortiz while continuously ordering him to stop, get off the wall, get on the ground and show his hands. Ortiz ignored his commands. When Ortiz was unable to get over the wall, he walked to a chain link fence that enclosed the north side of the yard. As Huelga continued to order Ortiz to stop and get on the ground, Ortiz used the fence in order to get his upper torso atop the cinder block wall at the northwest corner of the property. Huelga holstered his service weapon and secured it with the snap closure.[5] Huelga grabbed Ortiz by the shorts with one hand and pulled him off the wall. Ortiz landed on his feet and immediately turned toward Huelga. Ortiz began flailing his hands and arms toward Huelga's face. Huelga pushed Ortiz away from him and threw a punch at Ortiz' face. Ortiz ducked and the punch landed on the side of his head. Huelga felt intense pain in his hand from the hard blow but it had no affect on Ortiz.[6] Huelga punched Ortiz two more times in the face as Ortiz continued to swing his arms at him.

---

[1] [redacted] sustained five small lacerations to his forehead, a laceration to his left arm and one to his right elbow.
[2] The PAC car targets large apartment complexes that have problems with narcotic and gang activity. It does not respond to radio calls.
[3] A two-foot long piece of lightweight white metal was recovered in the driveway of one of the buildings.
[4] Larkin Avenue is one street west of 5th Street East.
[5] Huelga is certain that he also put the thumb safety on because that is his habit and he always does it.
[6] Ortiz was 5'8" and weighed 205 lbs.

Poteracki, who had fallen while going over the chain-link fence, reached Huelga and Ortiz. He saw that Ortiz was aggressively resisting Huelga's attempts to detain him. Poteracki punched Ortiz two to three times in the stomach. Ortiz did not appear to notice Poteracki and kept his focus on Huelga. Huelga punched Ortiz in the face again with no affect. Realizing that punches were not going to stop Ortiz, Poteracki grabbed Ortiz around the upper shoulders from behind in an attempt to take him to the ground. Ortiz maintained his footing and continued to lunge at Huelga. Ortiz grabbed Huelga as Poteracki held Ortiz in a bear hug.[7] Huelga pushed himself away from Ortiz to create distance between them. He then saw Ortiz pointing a gun at him with both arms extended. Huelga immediately grabbed for his service weapon and discovered that his holster was empty. He looked down and realized that Ortiz had taken his firearm. Huelga was in immediate fear for his life and the life of his partner. He warned Poteracki about the gun and took several quick steps to his left in an attempt to move out of the line of fire.

Poteracki heard Huelga yell, "Gun! Gun!" and observed Ortiz raise his arms toward his partner with a gun gripped in both hands. Poteracki immediately released Ortiz' shoulders and grabbed onto the gun with both hands from behind. Ortiz attempted to keep the gun pointed at Huelga, however, Poteracki was able to angle the gun upward and away from his partner. In that moment, Ortiz pulled the trigger and fired one round from Huelga's service weapon.[8]

Huelga, who had removed his backup revolver from his pants pocket, ran to the right side of Ortiz and Poteracki. He struggled to position himself so that he could shoot Ortiz without striking his partner while they fought for the gun. Eventually, Huelga placed the muzzle of his revolver to Ortiz' right side and fired one to two rounds. Ortiz and Poteracki fell to the ground as they continued to struggle over control of the gun. Huelga believed that Ortiz would kill Poteracki and himself if he did not stop him. Ortiz had taken his service weapon, attempted to shoot him and was still fighting for the gun after being shot. In fear for his life, and Poteracki's life, Huelga shot Ortiz one to two times in the head. At the same time, he heard Poteracki fire his service weapon two to three times.

Meanwhile, while Poteracki was struggling with Ortiz on the ground, Poteracki released his hold on the gun with his right hand while maintaining his grip with his left hand. Poteracki was worried that Ortiz was going to turn the weapon back toward him and shoot him. In fear for his life, Poteracki removed his service weapon from its holster and fired two rounds into Ortiz' right side or back area. After the second shot, he felt Ortiz begin to release the gun. He fired a third round and finally gained possession of the gun. Poteracki was unaware that Huelga had fired his backup weapon at the same time.

Poteracki stood up from the ground and requested assistance and a rescue ambulance over his handheld radio while Huelga held Ortiz at gunpoint. Los Angeles County Fire Department personnel responded to the scene and pronounced Ortiz dead at 6:15 p.m.

---

[7] Huelga believes that Ortiz grabbed him in the chest area.
[8] Huelga and Poteracki thought Ortiz fired two rounds, however, an examination of Huelga's service weapon determined that only one round had been fired.

Autopsy Report

Los Angeles County Deputy Medical Examiner Kevin Young, M.D., performed a post-mortem examination on the body of Javier Ortiz on August 6, 2012. Ortiz sustained seven fatal and one non-fatal gunshot wounds. The toxicology report revealed that Ortiz tested positive for the presence of methamphetamine in his blood.

Statement of [redacted]

Ortiz and [redacted] are [redacted] Ortiz had been living with [redacted] and his [redacted] since April 2012. According to [redacted] Ortiz suffered from drug and alcohol abuse since he was young. On August 3, 2012, [redacted] was home from work. His [redacted], [redacted], awoke him in the morning to complain about Ortiz. [redacted] contacted Ortiz who was sweating and picking at sores on his arms. Ortiz claimed that someone was trying to kill him and that he was being followed. At first, Ortiz denied being on drugs. He eventually admitted to [redacted] that he had been using crystal methamphetamine for the past two weeks.

[redacted] arrived home from work at approximately 4:30 p.m. She sent [redacted] to get Ortiz something to eat. Ortiz ran from the house and [redacted] and [redacted] followed him in separate cars. [redacted] followed Ortiz into a store. Ortiz became angry and attempted to strike [redacted] [redacted] tried to intercede but Ortiz pushed her away. Ortiz ran westbound on Palmdale Boulevard to his [redacted] auto repair shop. Because Ortiz was with his [redacted] and [redacted] decided to leave. On his way home he heard sirens and felt that it might have something to do with Ortiz. He returned to the area and learned about the deputy involved shooting.

Statement of [redacted]

Ortiz is [redacted] On August 3, 2012, [redacted] returned home from work and contacted Ortiz. She noticed that his eyes were bloodshot. He did not go to work that day and complained about body aches. [redacted] had her [redacted] get Ortiz something to eat. Ortiz did not want the food and asked for the car keys. [redacted] refused since Ortiz did not have a valid driver's license. Ortiz ran from the residence. Concerned for his well being, [redacted] and [redacted] followed Ortiz in separate vehicles. Ortiz ran into a smoke shop where [redacted] tried to contact him. Ortiz swung at [redacted] then fled from the store. [redacted] and [redacted] followed Ortiz to his [redacted] auto repair shop on Palmdale Boulevard. Ortiz was inside for a short time before he ran westbound on Palmdale Boulevard and out of her view. Ortiz' [redacted] told her to let Ortiz go and allow the police to detain him.[9] However, when they saw a police car, they believed the police were looking for Ortiz and decided to try and find him.

Pedestrians directed them to Larkin Avenue where they saw a patrol car parked in a driveway. [redacted] parked her truck in front of the residence as Ortiz' [redacted] quickly exited the truck and ran to the rear yard. [redacted] heard 3 to 4 gunshots. She saw Ortiz' [redacted] climb a fence into the rear

[9] [redacted] called 9-1-1 to report Ortiz' bizarre behavior after he ran from the residence. [redacted] told dispatch that Ortiz was hallucinating and believed that people were trying to kill him. At 5:45 p.m., deputies were dispatched to the area of Palmdale Boulevard and 15th Street East, but were unable to locate him.

yard while yelling "No, that's my [redacted]" [redacted] saw a deputy point his gun at Ortiz' [redacted] and order him to stay back. [redacted] saw Ortiz lying in the northwest corner of the rear yard on his side.

Statement of [redacted]

Witness [redacted] is the deceased's [redacted][10] The deceased worked for Witness [redacted] at his auto repair shop. On August 3, 2012, the deceased failed to show up for work. He phoned his [redacted] who sounded intoxicated. At 11:00 a.m., Witness [redacted] went to his [redacted] residence and checked on him. The deceased told his [redacted] that he was not feeling right. Witness [redacted] returned to his shop.

At 5:45 p.m., the deceased showed up at the repair shop and told Witness [redacted] that someone was following him. Witness [redacted] offered to take him home, but the deceased refused claiming that there was "no time" due to the people that were after him. The deceased ran from the shop and Witness [redacted] last saw him running onto 5th Street East. [redacted] arrived at the repair shop and Witness [redacted] got into her truck and went looking for the deceased. While driving on Larkin Avenue, he saw a patrol vehicle parked in a driveway. He heard a gunshot as he was exiting the truck. He jumped the chain link fence into the rear yard and saw the deceased lying on the ground and two deputies shooting him four to five times. Witness [redacted] yelled, "No! No! That's my [redacted]" One deputy turned toward him and told him to stay back.

Firearm Evidence

Poteracki's service weapon, a Beretta 92F 9mm semiautomatic, was examined and contained one live round in the chamber and the magazine contained 12 cartridges. The magazine had a capacity of 15 rounds.

Huelga's backup weapon, a Smith & Wesson .38 special revolver, was examined and contained five fired cartridge cases in the cylinder.

Huelga's service weapon, a Beretta 92F 9mm semiautomatic, was recovered approximately three feet south of Ortiz' body. The safety was in the "off" position and the hammer was down. One expended cartridge was recovered fully seated in the chamber and the magazine contained 15 cartridges. The magazine had a capacity of 15 rounds.

CONCLUSION

California law provides that the use of deadly force in self-defense or in defense of others is justifiable if the person claiming the right of self-defense or the defense of others honestly believes that he or others were in imminent danger of great bodily injury or death, and a reasonable person in the same circumstances would also deem it necessary to use deadly force in

[10] Since this witness has the [redacted] as his [redacted] the witness will be referred to as Witness [redacted] and [redacted] as the deceased.

order to protect themselves or others from the deadly peril. Cal. Penal Code § 197; *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also* CALCRIM No. 505.

"The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.... The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments -- in circumstances that are tense, uncertain, and rapidly evolving -- about the amount of force that is necessary in a particular situation." *Graham v. Conner* (1989) 490 U.S. 386, 396-397.

The evidence examined shows that Javier Salvador Ortiz was hallucinating and believed that unknown people were following him and trying to kill him on the day of the shooting. He admitted to his [redacted] that he had been smoking crystal methamphetamine which was verified by the toxicology report. When Deputies Huelga and Poteracki first observed Ortiz, he was assaulting [redacted] and [redacted] with a two-foot piece of metal.

Ortiz ignored numerous commands given to him in the rear yard and physically resisted Deputy Huelga. As Huelga and Poteracki tried to detain him, Ortiz took Huelga's service weapon from its holster. In the subsequent struggle for control over the gun, Ortiz fired one round as he attempted to point the weapon at Huelga. Ortiz continued his struggle with Deputy Poteracki for possession of the gun even after being shot by Huelga. Deputies Huelga and Poteracki reasonably believed that Ortiz had to be stopped before he gained possession of the firearm and killed them. The deputies' response with deadly force was both reasonable and necessary.

We conclude that Deputies Frank Huelga and Christopher Poteracki acted in lawful self-defense and defense of others when they used deadly force against Javier Salvador Ortiz. We are therefore closing our file and will take no further action in this manner.

Very truly yours,

JACKIE LACEY
District Attorney

By *Deborah A. Delport*

DEBORAH A. DELPORT
Deputy District Attorney
(213) 974-3888

c: Deputy Frank Huelga, #[redacted]
Deputy Christopher Poteracki #[redacted]